

CHAPTER 169

AIRPORT ZONING REGULATIONS

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169.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Creston Municipal Airport.
2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above sea level.
3. "Approach surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. "Approach, transitional, horizontal and conical zones" are set forth in this chapter.
5. "Board of Adjustment" means a board consisting of five members appointed by the Council/Board of Supervisors as provided in Chapter 329.12 of the Code of Iowa.
6. "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. "Height" for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. "Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

10. "Nonconforming use" means any pre-existing structure, object of natural growth or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.
11. "Nonprecision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
12. "Obstruction" means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in this chapter.
13. "Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
14. "Runway" means a defined area of an airport prepared for landing and take-off of aircraft along its length.
15. "Structure" means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.
16. "Transitional surfaces" means these surfaces extended outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
17. "Tree" means any object of natural growth.
18. "Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
19. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures.

169.02 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and

conical surfaces as they apply to the Creston Municipal Airport. Such zones are shown on the Creston Municipal Airport Zoning Map, which is on file at City Hall. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Utility Runway Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Horizontal Zone. The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

169.03 AIRSPACE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Nonprecision Instrument Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Transitional Zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to height of 150 feet above the airport elevation which is 1167.00 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for

each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

4. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1317.00 feet above mean sea level.

5. Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

6. Increase in Elevation of Structures. No structure shall be erected in the County that raises the published minimum descent altitude or decision height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

7. Excepted Height Limitations. Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree up to a height up to 50 feet above the surface of the land.

169.04 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

169.05 NONCONFORMING USES.

1. Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified by this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified by this chapter, and is diligently prosecuted.

2. Marking and Lighting. Notwithstanding the preceding subsection the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Chairperson, Airport Commission, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the City.

169.06 PERMITS.

1. Future Uses. Except as specifically provided in the following paragraphs, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with this section.

A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

B. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

C. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zone.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this chapter except as set forth in Subsection 169.03(7).

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified by this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed. Whenever the Chairperson determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustment for variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Iowa Department of Transportation Aeronautics Division for advice as to the aeronautical effects of the variance. If the Iowa Department of Transportation Aeronautics Division does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City at its own expense, to install, operate and maintain the necessary markings and lights.

169.07 ENFORCEMENT. It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to Zoning Administrator upon a form published for that purpose. Applications required by this chapter to be submitted to the Zoning

Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

169.08 BOARD OF ADJUSTMENT.

1. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter; (2) to hear and decide special exemptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
2. The Board of Adjustment shall consist of five (5) members appointed by the Council/Board of Supervisors and each shall serve for a term of five (5) years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year. Members shall be removable by the appointing authority for cause, upon written charges after a public hearing.
3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the office of the Clerk and on due cause shown.
4. The Board of Adjustment shall make written findings of facts and conclusions of law giving facts upon which it acted and its legal conclusions from such facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.
5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant, on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter.

169.09 APPEALS.

1. Any person aggrieved or any taxpayer affected by any decision of the Zoning Administrator made in the administration of this chapter may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.
4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

169.10 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Iowa District Court as provided in the Code of Iowa, Section 414.15.

169.11 PENALTIES. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a violation of this Code of Ordinances. Each day a violation continues to exist shall constitute a separate offense.

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